

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HOUSE BILL 2061

AN ACT

AMENDING SECTIONS 11-311 AND 36-831, ARIZONA REVISED STATUTES; RELATING TO BURIAL DUTIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 11-311, Arizona Revised Statutes, is amended to
3 read:

4 11-311. Appointment of veteran to supervise burial

5 The board of supervisors shall appoint any honorably discharged veteran
6 of any branch of the military establishment of the United States who is a
7 resident of the county, ~~who shall cause to be decently interred the body of~~
~~any honorably discharged veteran in the enlisted personnel of the military~~
~~establishment dying outside a national or state soldiers' home, or surviving~~
~~spouse of any honorably discharged veteran of any branch who dies without~~
~~sufficient means for funeral expenses~~ TO OVERSEE THE FINAL DISPOSITION OF
11 INDIGENT VETERANS AND THEIR SPOUSES WHOSE FINAL ARRANGEMENTS ARE COORDINATED
12 THROUGH THE COUNTY PURSUANT TO SECTION 36-831. A PERSON APPOINTED PURSUANT
13 TO THIS SECTION SHALL ENSURE THAT ARRANGEMENTS MADE BY THE COUNTY CONFORM TO
14 THE PROPER PRACTICES FOR VETERANS AND THAT, IF BURIAL OCCURS, THE BURIAL IS
15 MADE IN A VETERANS' CEMETERY OR A PORTION OF A CEMETERY THAT IS DESIGNATED
16 FOR THE BURIAL OF VETERANS AND SPOUSES OF VETERANS.

18 Sec. 2. Section 36-831, Arizona Revised Statutes, is amended to read:

19 36-831. Burial duties; notification requirements; failure to
20 perform duty; definitions

21 A. Except as provided pursuant to subsection ~~F~~ G OF THIS SECTION, the
22 duty of burying the body of or providing other funeral and disposition
23 arrangements for a dead person devolves in the following order:

- 24 1. If the dead person was married, on the surviving spouse.
- 25 2. If the dead person was a minor, on the parents.
- 26 3. If the dead person has no surviving spouse, on the adult children
27 of the dead person.
- 28 4. If none of the persons named in paragraphs 1, 2 and 3 of this
29 subsection are financially capable of providing for the burial or other
30 funeral and disposition arrangements, or cannot be located on reasonable
31 inquiry, on any person or fraternal, charitable or religious organization
32 willing to assume responsibility.

33 B. If none of the persons named in subsection A OF THIS SECTION is
34 willing or financially able to bury or provide other funeral and disposition
35 arrangements for a dead person, OR IF THE PERSON CANNOT BE LOCATED AFTER
36 REASONABLE EFFORTS HAVE BEEN MADE TO DO SO, the county in which death occurs
37 shall bury or place in a permanent care crypt the dead body or cremated
38 remains of a dead body ~~unless otherwise directed by a person named in~~
~~subsection A, paragraph 1, 2 or 3, or by the written testamentary instruction~~
~~of the decedent~~. IF THE DECEDENT IS KNOWN TO BE AN HONORABLY DISCHARGED
41 VETERAN OR THE SURVIVING SPOUSE OF AN HONORABLY DISCHARGED VETERAN, THE
42 COUNTY SHALL NOTIFY THE VETERANS' ADMINISTRATION OR A LOCAL VETERAN'S
43 ORGANIZATION, OR BOTH, OF THE DEATH AND GIVE THAT ORGANIZATION THE
44 OPPORTUNITY TO PROVIDE FOR THE PERSON'S BURIAL OR FOR OTHER FUNERAL AND
45 DISPOSITION ARRANGEMENTS. IF THE ORGANIZATION IS UNABLE TO PROVIDE FOR THE

1 BURIAL OF THE VETERAN OR THE SURVIVING SPOUSE, THE COUNTY SHALL ENSURE THAT
2 THE DECEDENT IS PROPERLY INTERRED AND THAT BURIAL IS MADE IN A VETERANS'
3 CEMETERY OR A PORTION OF A CEMETERY THAT IS DESIGNATED FOR THE BURIAL OF
4 VETERANS AND SPOUSES OF VETERANS.

5 C. If the county medical examiner or person performing the duties of
6 the county medical examiner knows that the dead person is a member of a
7 federally recognized Native American tribe located in this state, the county
8 medical examiner or person performing the duties of the county medical
9 examiner must notify the tribe and give the tribe the opportunity to provide
10 for the person's burial or other funeral and disposition arrangements. If an
11 autopsy is required by section 11-597, the county medical examiner or person
12 performing the duties of the county medical examiner, if possible, shall
13 complete the autopsy and return the remains to the federally recognized
14 Native American tribe located in this state within four calendar days after
15 the determined date of death.

16 D. A person on whom the duty prescribed in subsection A **OF THIS**
17 SECTION is imposed who omits **OR IS UNWILLING** to perform that duty within a
18 reasonable time or is prohibited from performing that duty under subsection G
19 **OF THIS SECTION** is liable to the person performing the duty in an amount of
20 two times the expenses the person incurred in providing for the burial or
21 other funeral and disposition arrangements. The person who performs this
22 duty may recover this amount in a civil action.

23 E. Notwithstanding the probate requirements of title 14, if a county
24 is required to bury a person pursuant to subsection B **OF THIS SECTION**, the
25 county may recover the burial costs from the decedent's estate. A financial
26 institution in possession of monies in an account in the decedent's name must
27 reimburse the county for the burial costs on presentation by the county of an
28 affidavit that certifies:

29 1. The date of the decedent's death.

30 2. That pursuant to this section, the county performed the decedent's
31 burial.

32 3. The total burial costs incurred by the county.

33 F. A person, a corporation or an agency of government that provides
34 for the burial or other funeral and disposition arrangements on the
35 instructions of a person described in subsection A **OF THIS SECTION** is immune
36 from civil liability:

37 1. For failing to honor the wishes of the decedent or the wishes of a
38 person having a higher priority in subsection A or B **OF THIS SECTION** if the
39 person, corporation or agency of government was not aware, after reasonable
40 inquiry, of the contrary wishes.

41 2. For refusing to follow conflicting directions of persons having the
42 same priority in subsection A **OF THIS SECTION**.

43 3. For following directions of a personal representative that are
44 consistent with the written testamentary instructions of the decedent.

1 G. The duty to bury or to provide other funeral and disposition
2 arrangements devolves to the next person in the order prescribed pursuant to
3 subsection A **OF THIS SECTION** if the person who is otherwise responsible for
4 performing this duty is charged with the criminal death of the person to whom
5 the duty is owed. The person who performs this duty may recover costs as
6 prescribed in subsection D **OF THIS SECTION**. If the charges against the
7 person on whom this duty originally fell are subsequently dismissed or are
8 resolved in that person's favor on the merits, the person is responsible for
9 only the actual costs.

10 H. For **THE** purposes of this section, "person" includes a natural
11 person, a corporation, a company, a partnership, a firm, an association, a
12 society, the United States, this state, any territory, state or country, an
13 Arizona federally recognized Native American tribe, any political subdivision
14 of this state or a public or private corporation or partnership or
15 association.

16 I. For the purposes of this article, "burial" includes cremation.